

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA**

Kaiwan Wallace,)	Case No. 9:23-cv-4193-RMG
)	
Plaintiff,)	
)	ORDER AND OPINION
v.)	
)	
Lenders Loan Company, Beaufort,)	
)	
Defendant.)	
)	

This matter is before the Court on the Report and Recommendation (“R&R”) of the Magistrate Judge (Dkt. No. 10) recommending that the Court dismiss Plaintiff’s complaint. For the reasons set forth below, the Court adopts the R&R as the order of the Court and dismisses Plaintiff’s complaint without prejudice and without leave to amend.

I. Background and Relevant Facts

Plaintiff, proceeding *pro se*, is a pretrial detainee and brings this action against Defendant Lenders Loan Company, Beaufort. As best the Court can decipher, Plaintiff seeks to attack a state court judgment in favor of Defendant awarded against Plaintiff. (Dkt. No. 10 at 2).

On October 31, 2023, the Court issued a proper form order, warning Plaintiff that his case was subject to dismissal for failure to state a claim upon which relief could be granted and granting Plaintiff time to amend his complaint accordingly. (Dkt. No. 5). Plaintiff, however, did not file an amended complaint.

On December 15, 2023, the Magistrate Judge issued an R&R recommending that Plaintiff’s complaint be dismissed without prejudice and without leave to amend. (Dkt. No. 15). Plaintiff did not file objections to the R&R.

II. Legal Standards

a. *Pro Se* Pleadings

This Court liberally construes complaints filed by *pro se* litigants to allow the development of a potentially meritorious case. *See Cruz v. Beto*, 405 U.S. 319 (1972); *Haines v. Kerner*, 404 U.S. 519 (1972). The requirement of liberal construction does not mean that the Court can ignore a clear failure in the pleadings to allege facts which set forth a viable federal claim, nor can the Court assume the existence of a genuine issue of material fact where none exists. *See Weller v. Dep't of Social Services*, 901 F.2d 387 (4th Cir. 1990).

b. Magistrate Judge's Report and Recommendation

The Magistrate Judge makes only a recommendation to this Court. The recommendation has no presumptive weight, and the responsibility for making a final determination remains with this Court. *See Mathews v. Weber*, 423 U.S. 261, 270–71 (1976). This Court is charged with making a *de novo* determination of those portions of the Report and Recommendation to which specific objection is made. Additionally, the Court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1). Where the plaintiff fails to file any specific objections, “a district court need not conduct a *de novo* review, but instead must only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” *See Diamond v. Colonial Life & Accident Ins. Co.*, 416 F.3d 310, 315 (4th Cir. 2005) (internal quotation omitted). Because Plaintiff did not file objections to the R&R, the Court reviews the R&R for clear error.

III. Discussion

The Court finds that the Magistrate Judge ably addressed the issues and correctly concluded that Plaintiff's complaint should be dismissed without prejudice and without leave to amend as Plaintiff has failed to establish this Court has subject matter jurisdiction and has failed to state a claim upon which relief may be granted. (Dkt. No. 10 at 4-10) (noting Plaintiff has not established

federal question or diversity jurisdiction, that Plaintiff's claims are devoid of specific factual information to support a claim for relief, including but not limited to the fact Plaintiff brings this action under § 1983 but Plaintiff has not established Defendant is a state actor); (*Id.*) (further noting that Plaintiff cannot request this Court hear an "appeal" of the before mentioned state court action and that Plaintiff has failed to articulate a cognizable claim for relief).

IV. Conclusion

For the reasons set forth above, the Court **ADOPTS** the R&R (Dkt. No. 10) as the order of Court and **DISMISSES** Plaintiff's complaint without prejudice and without leave to amend.

AND IT IS SO ORDERED.

s/ Richard Mark Gergel
United States District Judge

January 4, 2024
Charleston, South Carolina